

SENATE BILL NO. 249

INTRODUCED BY CURTISS, BENNETT, MCGEE, SHOCKLEY, VINCENT

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF JUSTICE TO ISSUE A LIMITED-USE DRIVER'S LICENSE, UNDER CERTAIN CIRCUMSTANCES, TO A PERSON WHOSE LICENSE HAS BEEN SUSPENDED OR REVOKED BY ANOTHER STATE; AMENDING SECTIONS 61-5-103; AND 61-5-105, ~~AND 61-5-125~~, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-5-103, MCA, is amended to read:

"61-5-103. Residency requirement. (1) ~~A~~ Except as provided in [section 4 3], a person who has resided in Montana for more than 60 consecutive days is considered to be a resident for the purpose of being licensed to operate a motor vehicle and must be licensed under the laws of Montana before operating a motor vehicle.

(2) A person who has resided in Montana for more than 30 consecutive days:

(a) is considered to be a resident for the purpose of being licensed to operate a commercial motor vehicle; and

(b) must be licensed under the laws of Montana before operating any commercial motor vehicle.

(3) The department may issue a commercial driver's license to a person who is not a resident of Montana or domiciled in Montana only if:

(a) the person is domiciled in a foreign country with commercial driver's license standards, as determined by the federal motor carrier safety administration of the department of transportation, that are not similar to the testing and licensing standards provided in 49 CFR, part 383, subparts F, G, and H; or

(b) the person is domiciled in a state that is prohibited by the federal motor carrier safety administration from issuing commercial driver's licenses under 49 CFR 384.405."

Section 2. Section 61-5-105, MCA, is amended to read:

"61-5-105. Who may not be licensed -- exceptions. The department may not issue a license under this chapter to a person:

(1) who is under 16 years of age unless:

1 (a) the person is at least 15 years of age and has passed a driver's education course approved by the
2 department and the superintendent of public instruction; or

3 (b) the person is at least 13 years of age and, because of individual hardship, to be determined by the
4 department, needs a restricted license;

5 (2) except as provided in [section 4 3], whose license or driving privilege is currently suspended,
6 revoked, or canceled or who is disqualified from operating a commercial motor vehicle in this or any state, as
7 evidenced by an ineligible status report from the national driver register, established under 49 U.S.C. 30302, or
8 from the commercial driver's license information system, established under 49 U.S.C. 31309;

9 (3) who is addicted to the use of alcohol or narcotic drugs;

10 (4) who has previously been adjudged to be afflicted with or suffering from any mental disability or
11 disease and who, at the time of application, has not been restored to competency by the methods provided by
12 law;

13 (5) who is required by this chapter to take an examination;

14 (6) who has not deposited proof of financial responsibility when required under the provisions of chapter
15 6 of this title;

16 (7) who has any condition characterized by lapse of consciousness or control, either temporary or
17 prolonged, that is or may become chronic. However, the department may, in its discretion, issue a license to an
18 otherwise qualified person suffering from a condition if the afflicted person's attending physician, licensed
19 physician assistant, or advanced practice registered nurse, as defined in 37-8-102, attests in writing that the
20 person's condition has stabilized and would not be likely to interfere with that person's ability to operate a motor
21 vehicle safely and, if a commercial driver's license is involved, the person is physically qualified to operate a
22 commercial motor vehicle under applicable state or federal regulations;

23 (8) who lacks the functional ability, due to a physical or mental disability or limitation, to safely operate
24 a motor vehicle on the highway;

25 (9) who is not a resident of or domiciled in Montana except as provided in 61-5-103(3); or

26 (10) who does not submit proof satisfactory to the department that the applicant's presence in the United
27 States is authorized under federal law. The department may not accept as a primary source of identification a
28 driver's license issued by a state if the state does not require that a driver licensed in that state be lawfully present
29 in the United States under federal law."

30

1 ~~Section 3.~~ Section 61-5-125, MCA, is amended to read:

2 ~~"61-5-125. Authority of department -- rulemaking authority.~~ (1) The department shall administer and
3 enforce the provisions of this chapter.

4 ~~(2) The department shall adopt rules setting standards to govern driver's license examinations and~~
5 ~~reexaminations. The rules:~~

6 ~~(a) must specifically address the functional abilities and skills required for a person to exercise ordinary~~
7 ~~and reasonable control in the safe operation of a motor vehicle on a highway;~~

8 ~~(b) must include minimum uncorrected or corrected visual acuity requirements for both unrestricted and~~
9 ~~restricted licensure and may include minimum field of vision and depth perception requirements and hearing~~
10 ~~requirements for unrestricted and restricted licensure;~~

11 ~~(c) may direct the design of one or more types of skills tests to assess an applicant's or licensee's ability~~
12 ~~to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway. A skills test~~
13 ~~may consist of:~~

14 ~~(i) a comprehensive assessment of a person's functional abilities by means of an actual demonstration~~
15 ~~of the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle; or~~

16 ~~(ii) a more limited assessment of a person's functional abilities, conducted at the discretion of the~~
17 ~~department, as related to a specific physical or mental condition or conditions or a request for reexamination;~~

18 ~~(d) must include operational restrictions based upon the visual acuity of an applicant or licensee;~~

19 ~~(e) may take into consideration any nationally recognized standards or recommended practices for~~
20 ~~assessment of a person's ability to exercise ordinary and reasonable control in the safe operation of a motor~~
21 ~~vehicle on the highway;~~

22 ~~(f) must include appropriate licensing criteria relating to the use of adaptive equipment or operational~~
23 ~~limits that can be readily discerned by law enforcement or a licensing agency in another jurisdiction;~~

24 ~~(g) may be derived from medical guidelines and information compiled by driver licensing medical~~
25 ~~advisory or review boards from other jurisdictions, as well as information received from advocacy groups for~~
26 ~~persons with disabilities and senior citizens; and~~

27 ~~(h) except as provided in 61-5-105, may not use a person's age or physical or mental disability, limitation,~~
28 ~~or condition as a justification for denial of a license.~~

29 ~~(3) The department may adopt additional rules governing:~~

30 ~~(a) acceptable methods of proof of identification that must be supplied by a person upon application for~~

1 ~~or renewal of a driver's license;~~

2 ~~—— (b) issuance of a hardship license to an underage applicant;~~

3 ~~—— (c) the cancellation of a driver's license upon receipt of an insufficient funds check in payment of license~~
4 ~~fees;~~

5 ~~—— (d) circumstances under which the department may issue a probationary license to a person whose~~
6 ~~license has been suspended or revoked or a person whose license is subject to a discretionary suspension or~~
7 ~~revocation;~~

8 ~~—— (e) restrictions to be imposed upon a probationary license;~~

9 ~~—— (f) renewal of a driver's license by a person in the military assigned to active duty who had a valid~~
10 ~~Montana driver's license at the time of entering active duty;~~

11 ~~—— (g) issuance of a replacement driver's license; and~~

12 ~~—— (h) a determination of the driver's license expiration date, minimum and maximum license terms, and~~
13 ~~license renewal requirements for a driver's license issued to a person who is a foreign national whose presence~~
14 ~~in the United States is temporarily authorized under federal law.~~

15 ~~—— (4) The department shall adopt rules governing the application process and renewal schedule for~~
16 ~~limited-use driver's licenses authorized under [section 4] and the conditions under which a person with a~~
17 ~~limited-use driver's license may apply for and receive a driver's license under this part.~~

18
19 **NEW SECTION. Section 3. Eligibility for limited-use driver's license when privileges withdrawn**
20 **in another state -- definitions.** (1) The department shall issue a limited-use driver's license to a person who
21 applies if, as determined by the department:

22 (a) the person has maintained continuous residence in Montana for at least 1 year and is not ineligible
23 for a license under 61-5-105;

24 (b) the person submits a certified driving record from the licensing agency of each state in which an
25 ineligible status has been reported to the national driver register, established under 49 U.S.C. 30302, that shows
26 that at least 7 8 years have elapsed from the effective date of the most recent withdrawal of the person's driver's
27 license or driving privileges by the other state or states;

28 (c) the most recent withdrawal of the person's driver's license or driving privileges by the licensing agency
29 of the other state or states was for a cause other than failure to pay child support and no withdrawal related to
30 child support is still in effect in another state;

(d) for the 1-year period immediately preceding the person's application for a limited-use driver's license, a conviction against the person for a traffic violation or an alcohol or drug offense has not been reported to the department or the licensing agency of another state; and

(e) the person certifies that no traffic citations or alcohol or drug charges are currently pending against the person.

(2) Upon review of the documents submitted by a person applying for a limited-use driver's license under the provisions of subsection (1) and if the person is otherwise qualified for licensure under this chapter, the department shall require the person to:

(a) obtain and continuously maintain proof of financial responsibility for the ~~1-year~~ 3-YEAR period immediately following licensure; and

(b) if the person's certified driving record includes a conviction in Montana or any state for operating a motor vehicle with an alcohol concentration at or above the lawful limit, operating a motor vehicle under the influence of alcohol, drugs, or a combination of alcohol and drugs, or a vehicular homicide or assault, either:

(i) successfully complete a chemical dependency assessment, an education course, and, if recommended by a licensed addiction counselor, a treatment program recognized under the laws of this state; or

(ii) provide proof, satisfactory to the department, that the person successfully completed a similar assessment, course, or program recognized under the laws of another state after the most recent withdrawal of the person's driver's license or driving privileges by the licensing agency of the other state or states.

(3) Upon issuing a limited-use driver's license, the department shall advise the person who receives the license that the person may be charged with an offense of driving while a driver's license is suspended or revoked in any other state as a result of a withdrawal action still in effect in another state.

(4) For the purposes of this section, the following definitions apply:

(a) "Limited-use driver's license" means a driver's license, other than a commercial driver's license, issued by the department and authorizing the in-state operation of a motor vehicle by a person for whom an ineligible status from the national driver register has been reported.

(b) "Most recent withdrawal" means the suspension, revocation, or denial of a driver's license or driving privilege underlying a current ineligible status report made by another state's licensing agency to the national driver register. ~~When a series of suspension, revocation, or denial actions has been consecutively imposed against the person without any intervening license reinstatements, the effective date of the most recent~~

1 ~~withdrawal is the beginning date of the first action in the series.~~

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3 NEW SECTION. **Section 4. Codification instruction.** [Section ~~4~~ 3] is intended to be codified as an
4 integral part of Title 61, chapter 5, part 1, and the provisions of Title 61, chapter 5, part 1, apply to [section ~~4~~ 3].

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6 NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

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